

Department of Veterans Affairs

§ 21.9525

U.S.C. 3011(b) or 3012(c) makes an irrevocable election to receive benefits under 38 U.S.C. chapter 33; or

(iii) A member of the Armed Forces who made an election not to receive educational assistance under 38 U.S.C. chapter 30 in accordance with 38 U.S.C. 3011(c)(1) or 3012(d)(1) makes an irrevocable election to receive benefits under 38 U.S.C. chapter 33.

(2) An individual may make an irrevocable election to receive benefits under this chapter by properly completing VA Form 22-1990, submitting a transfer-of-entitlement designation under this chapter to the Department of Defense, or submitting a written statement that includes the following—

(i) Identification information (including name, social security number, and address);

(ii) If applicable, an election to receive benefits under chapter 33 in lieu of benefits under one of the applicable chapters listed in paragraph (c)(1)(i) of this section (e.g., “I elect to receive benefits under the Post-9/11-GI Bill in lieu of benefits under the Montgomery GI Bill—Active Duty (chapter 30) program.”);

(iii) The date the individual wants the election to be effective (e.g., “I want this election to take effect on August 1, 2009.”). An election request for an effective date prior to August 1, 2009, will automatically be effective August 1, 2009; and

(iv) An acknowledgement that the election is irrevocable (e.g., “I understand that my election is irrevocable and may not be changed.”).

(Authority: 38 U.S.C. 3311; Pub. L. 110-252, Stat. 2375-2376)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0154)

§ 21.9525 Eligibility for increased and supplemental educational assistance.

(a) *Increased assistance for members with critical skills or specialty.* The Secretary of the military department concerned, pursuant to regulations prescribed by the Secretary of Defense, may increase the amount of educational assistance payable under

§ 21.9640(b)(1)(ii) or (b)(2)(ii) to an individual who has a skill or specialty in which there is a critical shortage of personnel, for which there is difficulty recruiting, or, in the case of critical units, for which there is difficulty in retaining personnel.

(b) *Supplemental assistance for members serving additional service.* The Secretary of the military department concerned, pursuant to regulations prescribed by the Secretary of Defense, may supplement the amount of educational assistance payable under § 21.9640(b)(1)(ii) or (b)(2)(ii) to an individual who meets the following service requirements.

(1) *Individuals with active duty service only.* Supplemental educational assistance may be offered to an individual who serves 5 or more consecutive years on active duty in the Armed Forces in addition to the years counted to qualify for educational assistance, without a break in such service, and—

(i) Continues on active duty without a break;

(ii) Is discharged from service with an honorable discharge;

(iii) Is placed on the retired list;

(iv) Is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve;

(v) Is placed on the temporary disability retired list; or

(vi) Is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

(2) *Individuals with Selected Reserve service.* (i) Supplemental educational assistance may be offered to an individual who—

(A) Serves 2 or more consecutive years on active duty in the Armed Forces in addition to the years on active duty counted to qualify for educational assistance;

(B) Serves 4 or more consecutive years of duty in the Selected Reserve in addition to the years of duty in the Selected Reserve counted to qualify the individual for educational assistance; and

(C) After completion of such service—

(1) Is discharged from service with an honorable discharge;

(2) Is placed on the retired list;

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(3) Is transferred to the Fleet Reserve or Fleet Marine Corps Reserve;

(4) Is placed on the temporary disability retired list;

(5) Continues on active duty; or

(6) Continues in the Selected Reserve.

(ii) The Secretary concerned may, pursuant to regulations prescribed by the Secretary of Defense, determine the maximum period of time during which the individual is considered to have continuous service in the Selected Reserve even though the individual—

(A) Is unable to locate a unit of the Selected Reserve for which he or she is eligible;

(B) Is unable to locate a unit of the Selected Reserve that has a vacancy; or

(C) For any other reason other than those stated in paragraph (b)(2)(ii)(A) and (B) of this section.

(iii) Any decision as to the continuity of an individual's service in the Selected Reserve made by the Secretary of Defense will be binding upon VA.

(Authority: 38 U.S.C. 3021, 3022, 3023, 3316)

§ 21.9530 Eligibility time limit.

(a) Except as provided in paragraphs (b) through (e) of this section, an individual's period of eligibility for educational assistance will terminate effective 15 years from the date of the last discharge or release from active duty of at least—

(1) 90 continuous days; or

(2) 30 continuous days if the individual is released for a service-connected disability.

(b) In the case of an individual who establishes eligibility and does not meet one of the service requirements specified in paragraph (a) of this section, the individual's period of eligibility for educational assistance will terminate effective 15 years from the date of discharge for the last period of service used to meet the minimum service requirements for eligibility as stated in § 21.9520.

(c) *Amendment of military records.* If an individual's eligibility for educational assistance is established as a result of a correction of military records under 10 U.S.C. 1552, a change, correction, or modification of a discharge or dismissal under 10 U.S.C. 1553, or other

corrective action by a competent military authority, the individual's period of eligibility will terminate effective 15 years from the date of the change, correction, modification, or other corrective action.

(Authority: 38 U.S.C. 3311(c), 3321)

(d) *Time limit for spouse using transferred entitlement.* (1) Unless the transferor dies while on active duty, the ending date of the spouse's period of eligibility for entitlement transferred under § 21.9570 is the earliest of the following—

(i) The transferor's ending date as determined under this section;

(ii) The ending date specified by the transferor, if the transferor specified the period for which the transfer was effective; or

(iii) The effective date of the transferor's revocation of transferred entitlement as determined under § 21.9570(f).

(2) If the transferor dies while on active duty, the ending date of the spouse's period of eligibility is the earliest of the following—

(i) The date 15 years from the transferor's date of death;

(ii) The ending date specified by the transferor, if the transferor specified the period for which the transfer was effective; or

(iii) The effective date of the transferor's revocation of transferred entitlement as determined under § 21.9570(f).

(Authority: 38 U.S.C. 3319)

(e) *Time limit for child using transferred entitlement.* (1) The ending date of the child's period of eligibility for entitlement transferred under § 21.9570 is the earliest of the following—

(i) The ending date specified by the transferor, if the transferor specified the period for which the transfer was effective;

(ii) The effective date of the transferor's revocation of transferred entitlement as determined under § 21.9570(f); or

(iii) The day the child turns 26.

(2) [Reserved]

(Authority: 38 U.S.C. 3319)